

REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars:

1. Amendments and Support for Same

By the Response, claims 1, 23 and 27 have been amended to more particularly point out and distinctly claim the subject matter of the invention. Particularly, in response to the Examiner's remark in Section 3, page 11 of the Office Action, independent claim 1, as well as independent claims 23 and 27, has been amended to further recite "the axial direction of the casing being parallel to an advancing direction of the lancing element." The support for this feature can be found in Figs. 15-16 and the relevant text in paragraph [0096] of US 2007/0078360 A1, which is a publication of the present application. No new matter has been added.

Applicant respectfully notes that, although claims 23-31 have been withdrawn previously as being drawn to a non-elected invention, claims 23 and 27 have been amended so as to be consistent with amended claim 1.

New dependent claim 34 has been added to further complete the scope of protection to which Applicant is entitled. Support for new claim 34 can be found in, e.g., Figs. 25 and 27A and the relevant text in paragraph [0113] of US 2007/0078360. No new matter has been added.

Accordingly, claims 1 and 3-34 are respectfully submitted for consideration. Approval and entry of the amendments are respectfully requested.

2. Rejection under 35 U.S.C. §102(a)

With respect to the rejection of independent claims 1 and 32 and dependent claims 3-18 and 33 under 35 U.S.C. §102(a) as being anticipated by Koike et al. (WO 03/005907 or US 2004/0243165 – hereinafter Koike), Applicant respectfully traverses the rejection at least for the reason that Koike fails to describe each and every limitation recited in the rejected claims.

As amended, claim 1 recites, among other things, *“the lancet body becomes movable relative to the casing when an external force exceeding the predetermined level in the particular direction is applied to the casing, and wherein the particular direction crosses an axial direction of the casing, and the particular direction is directed from an outside of the casing toward an inside of the casing, the axial direction of the casing being parallel to an advancing direction of the lancing element.”*

According to the embodiment recited in amended claim 1, the lancet body becomes movable relative to the casing when a certain external force is applied to the casing in the particular direction that crosses an axial direction of the casing, which is parallel to an advancing direction of the lancing element. Thus, as shown in Fig. 15, for example, when the external force is applied in the arrowed D2 direction (i.e., in the direction perpendicular to the advancing direction of the lancing element), the lancet body 20 becomes movable relative to the casing 22.

Applicant respectfully asserts that the above-discussed feature of claim 1 is not taught, disclosed or suggested by Koike. In fact, as annotated in Fig. 11A on page 4 of the Action, in Koike's device, an external force is applied in the direction parallel to the advancing direction of the lancing element. Thus, the above feature of claim 1 is distinguishable over Koike.

With respect to independent claim 32, the claim recites, among other things, *“... when the external force exceeding the predetermined level in the particular direction is applied to the casing, the opening is deformed so as to change the cross-sectional shape of the casing, thereby causing the lancet body to be movable relative to the casing.”*

In lines 4-5, page 8 of the Office Action, the Examiner contends that “the casing [of Koike] is formed with an opening (70a, Fig. 19a, b, 20) for allowing a cross-sectional shape to change.” However, unlike the presently claimed invention, the conventional opening (70a) is not deformed in causing the lancet body to be movable relative to the casing. The fact is, as correctly pointed out by the Examiner in lines 8-10, page 8 of the Office Action, that it is the movable pieces 70A which are deformed (i.e., “pushed out of the way”) for allowing the lancet body 2A to move relative to the casing.

Consequently, since each and every feature of the present claims is not taught (and is not inherent) in Koike, as is required by MPEP Chapter 2131 in order to establish anticipation, the rejection of claims 1, 3-18 and 32-33, under 35 U.S.C. §102(a), as anticipated by Koike is improper.

In view of the amendment and arguments set forth above, Applicant respectfully requests reconsideration and withdrawal of the §102(a) rejection of claims 1, 3-18 and 32-33.

3. Rejections under 35 U.S.C. §103(a)

With respect to the rejection of claims 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over Koike in view of Nishikawa (US 6,315,738), and to the rejection of claims 21 and 22 under 35 U.S.C. §103(a) as being unpatentable over Koike in view of Moerman (US 7,378,007), Applicant respectfully traverses the rejections at least for the reasons set forth above in relation to the §102(a) rejection of independent claim 1, and for the reason that Koike, Nishikawa and Moerman, combined or separately, fail to teach, disclose, or suggest all of the limitation recited in the rejected claims 19-22.

As explained above, Koike fails to teach, disclose or suggest the above-noted feature of claim 1. That is, Koike fails to teach, disclose or suggest at least the feature wherein the required external force is applied in a direction perpendicular to the advancing direction of the lancing element. Applicant respectfully asserts that clearly neither Nishikawa nor Moerman discloses this feature of claim 1, as readily seen, for example, from Fig. 6 and also lines 2-4, col. 15 of Nishikawa and Figs. 2B-2C of Moerman. Thus, even a combination of Koike and Nishikawa or Moerman does not disclose all of the features of amended claim 1 and hence dependent claims 19-22.

In view of the amendment and arguments set forth above, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejections of claims 19-22.

4. Conclusion

In view of the amendments to the claims, and in further view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is requested that claims 1, 3-22 and 32-33 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicant's representative, the Examiner is invited to contact the undersigned at the numbers shown.

Further, while no fees are believed to be due, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-4525.

Respectfully submitted,

/Donald R. Studebaker/
Donald R. Studebaker
Registration No. 32,815

Studebaker & Brackett PC
One Fountain Square
11911 Freedom Drive
Suite 750
Reston, Virginia 20190
(703) 390-9051
Fax: (703) 390-1277
don.studebaker@sbpatentlaw.com